

February 6, 2006

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands – WT Docket No. 03-66*

NOTICE OF ORAL EX PARTE COMMUNICATION

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, I am writing to advise that earlier today, Jeanine Poltronieri of BellSouth Corp., Terri Natoli and Nadja Sodos-Wallace of Clearwire Corporation, George Alex of Nextwave Broadband Inc., Robert Finch and Trey Hanbury of Sprint Nextel Corporation, and the undersigned on behalf of the Wireless Communications Association International, Inc., met with Commissioner Deborah Taylor Tate and her legal advisor, Aaron Goldberger, to express the opposition of wireless broadband system developers to the proposed reinstatement of a rule limiting Educational Broadband Service ("EBS") excess capacity leases to a maximum term of fifteen years.

The participants emphasized that adoption of the proposed maximum lease term would undermine the Commission's efforts to promote rapid deployment of wireless broadband facilities using leased EBS spectrum for the benefit of both consumers and educational users. It was explained that because a fifteen year EBS lease term does not provide assured access to spectrum for a sufficient length of time to satisfy the needs of the investment community, funding will not flow to EBS-based broadband systems if the proposed rule is adopted. The wireless system developers explained how adoption of a fifteen year maximum lease term will jeopardize the deployment of advanced wireless broadband systems using the EBS spectrum because investment will be driven to other spectrum (such as 700 MHz, the Wireless Communications Service at 2.3 GHz, the Advanced Wireless Service at 1.7/2.1 GHz or the Broadband Radio Service at 2.5 GHz). The net result, they explained, will be an end to the

Marlene H. Dortch

February 6, 2006

Page 2

symbiotic relationship between commercial service providers and EBS. They noted that historically there has been very little utilization of the EBS spectrum that was not funded by leasing of excess capacity. Thus, if a fifteen year maximum lease term is adopted and the lease-driven funding that has been critical to the exponential growth of EBS over the past two decades jeopardized, educators will not have access to the commercial advanced wireless networks that EBS licensees cannot practically deploy on their own. Moreover, even the handful of EBS licensees that are not dependent on leasing revenues for their EBS activities will be denied the new advancements in EBS technology that will inevitably result if commercial activities using the band thrive.

The broadband system operators noted that imposition of an uneconomic maximum lease term is not necessary to protect EBS licensees. They argued that the leasing marketplace is highly competitive, with a prospective EBS lessor able to negotiate with multiple potential lessees to extract the concessions that best meet its needs. They explained that EBS licensees have routinely negotiated excess capacity leases that extend beyond fifteen years, while including provisions that afford the EBS licensee the ability to gain use of additional spectrum or services over the course of the agreement should educational needs change.

Pursuant to Section 1.1206(b) of the Commission's Rules, an electronic copy of this letter is being filed with the office of the Secretary. Should you have any questions regarding this presentation, please contact the undersigned.

Respectfully submitted,

/s/ Paul J. Sinderbrand

Paul J. Sinderbrand

Counsel for the Wireless Communications
Association International, Inc.

cc: Hon. Deborah Taylor Tate
Aaron Goldberger